the incumbent President of the Law Society, that the delay was premeditated, that the respondent took great pains to ensure that the object of his scheme would not be prejudiced by premature disclosure and that the method adopted to achieve his purpose was dishonourable. We cannot disregard the fact that the respondent, to whom his legal assistant had admitted criminal breaches of trust in respect of clients' monies held by the firm, did not immediately report the matter to the Law Society but continued to allow the offender to actively practise his profession as a member of the respondent's firm in order to enable the respondent to obtain full restitution from the offender.

Having regard to all these circumstances our order is that the respondent be suspended from practice for a period of two years. The respondent must pay the costs.

Order accordingly.

LEE KENG KEE v. THE ATTORNEY-GENERAL, SINGAPORE

[O.C.J. (Rajah J.) November 25, 1980]
[Singapore — Suit No. 2751 of 1978]

Administrative Law — Rules of natural justice — Dismissal of police inspector as a result of disciplinary action taken against him — Letter of dismissal from Acting Permanent Secretary silent on plaintiff's guilt on charges — Whether there was compliance with regulations and rules of natural justice — Police Force Act (Cap. 78), ss. 26, 27 28 & 28A — Public Service (Disciplinary Proceedings) Regulations, 1970, reg. 4 — Constitution of Singapore (Reprint 1980), arts. 102(1), 110(3) & (4) — Constitution of Malaysia, arts. 132(2A), 135(1) & (2).

Constitutional Law — Natural justice — Police inspector — Right of being heard — Scope of art. 110(3), Constitution of Singapore (Reprint 1980).

Police Force — Tenure of police inspector — "A person holding office" — Natural justice requirement before dismissal — Police Force Act (Cap. 78), ss. 26, 27, 28 & 28A.

The plaintiff in this case was an inspector in the police force. By a letter dated April 6, 1977, the Acting Permanent Secretary of the Ministry of Home Affairs informed him that disciplinary proceedings under regulation 4 of the Public Service (Disciplinary Proceedings) Regulations 1970 had been commenced against him on the three charges stated therein. On April 26, 1977 the plaintiff submitted to the Public Service Commission his exculpatory statement, denying all the said three charges. The Commission not finding the exculpatory statement satisfactory, appointed a committee of Inquiry under the said regulation 4. Thereafter correspondence ensued between the Chairman of the Committee and the plaintiff regarding the procedural aspects of the pending inquiry. On September 6, 8 and 9, 1977 the plaintiff appeared by counsel before the Committee of Inquiry. On December 7, 1977 the plaintiff received a letter from the Acting Permanent Secretary, Ministry of Home Affairs, stating that he had been dismissed from the service with effect from the day following the date the said letter was received by him. The said letter was silent on the plaintiff's guilt on the said charges. On May 24, 1978, the plaintiff's solicitors inquired of the Permanent Secretary the charges on which the plaintiff had been found guilty. A reply was received saying that the plaintiff had been found guilty on two of the said charges.

The plaintiff commenced the present action and contended, *inter alia,* that the proceedings before the Committee of Inquiry were conducted in breach of the Regulations and were contrary to the rules of natural justice thereby rendering any finding or decision based on the said proceedings null and void. He also contended that the Public Service Commission had contravened the provisions of article 78(3) of the Constitution of Singapore (art 110(3) of the Reprint edition) by not giving him a reasonable opportunity of being heard before he was dismissed from the Police Force.

The present court also found that (1) the Committee had no power or authority to deal with, nor did it invite submissions on punishment; (2) no submissions were made by the plaintiff to the Committee as to punishment; (3) there was no invitation by the Public Service Commission to the plaintiff either to address them on punishment or to show cause why he should not be dismissed.

Held, allowing the plaintiff's application: (1) a police inspector's tenure of office is governed by the Police Force Act (Cap. 78). He falls under a class of persons "holding office where there must be 'something' against him to warrant his dismissal." In this class of cases an officer cannot lawfully be dismissed without first telling him what is alleged against him and hearing his defence or explanation;

(2) what article 110(3) of the Singapore Constitution (Reprint) does for an Inspector of Police is that it entrenches in the Constitution the right of being heard before dismissal or reduction which he had previously enjoyed under the Police Force Act;

(3) it is settled law that both in Malaysia and Singapore the phrase "of being heard" does not mean an actual hearing in the way the plaintiff was afforded a hearing when he was answering the three charges. The said article 110(3) would have been satisfied had the public officer been afforded an opportunity to present his views on punishment to the Public Service Commission;

(4) as the opportunity to be heard had not been afforded to the plaintiff at the inquiry stage then that opportunity should have been provided sometime between the termination of the inquiry and the imposition of the punishment or penalty. The opportunity not having been so provided the rule of fairness was broken and any punishment or penalty imposed in such circumstances is against the rules of natural justice;

(5) the purported dismissal of the plaintiff in this case was null and void and must be set aside.

Obiter dictum: "... if the PSC does not wish to delegate both its powers of inquiry and of punishment to a committee then it should take appropriate steps to comply with the provisions of article 110(3) of the present Constitution. In the circumstances similar to the instant case ... the P.S.C. would avoid contravention of the Article if they were either, to write to the public officer concerned asking him what he has to say on punishment, or, to invite him to show cause why a certain punishment such as dismissal, should not be imposed in respect of the charge or charges on which he had been found guilty."

Cases referred to:-

(1) *Priddle* v. *Fisher & Sons* [1968] 1 W.L.R. 1478, C.A.
(2) *University of Ceylon* v. *Fernando* [1960] 1 All E.R. 631, P.C.
(3) *R.* v. *General Medical Council, Ex parte Spackman* [1942] 2 All E.R. 150.
(4) *Ridge* v. *Baldwin* [1963] 2 All E.R. 66.
(5) *Ling How Doong* v. *Attorney-General* [1968] 2 M.L.J. 253; [1969] 1 M.L.J. 154, F.C.
(6) *Jacob* v. *Attorney-General* [1970] 2 M.L.J. 133.
(7) *Sithambaran* v. *Attorney-General* [1972] 2 M.L.J. 175.
(8) *Najar Singh* v. *Government of Malaysia & Anor.* [1976] 1 M.L.J. 203, P.C.

CIVIL SUIT.

J.B. Jeyaretnam for the plaintiff.

Chao Hick Tin (Senior State Counsel) for the defendant.

Cur. Adv. Vult.

Rajah J.: The plaintiff became a member of the Singapore Police Force as a constable recruit in December 1965 and was confirmed in the rank of constable in 1966. His service with the Police Force was

subject to and governed by the Police Force Act (Cap. 78) (the Act) and by section 26 thereof he had to obey all lawful orders whether given verbally or in writing and also had to obey and conform to Police Regulations, Police General Orders (P.G.O.), Force Orders and Standing Orders made under the Act. He was promoted to the rank of Inspector in the year 1971.

By letter dated April 6, 1977, the Acting Permanent Secretary of the Ministry of Home Affairs informed the plaintiff that disciplinary proceedings under Regulation 4 of the Public Service (Disciplinary Proceedings) Regulations 1970 (the Regulations) had been commenced against him on the three charges therein stated. The relevant and material parts of the said letter read as follows: —

"I am directed by the Public Service Commission to inform you that the Commissioner of Police, acting under section 28A of the Police Force Act (Chapter 78) has referred to the Public Service Commission a case where disciplinary proceedings are to be taken against you. The same are hereby commenced against you under Regulation 4 of the Public Service (Disciplinary Proceedings) Regulations, 1970 on the following charges:—

That you, Lee Keng Kee, Inspector of Police attached to the Singapore Police Force, Republic of Singapore, are charged:

a. That you, between 28th February, 1975 and 4th March 1975 whilst making and on a trip from Singapore to Kuala Lumpur, West Malaysia and back, in the course of investigating into a case of Criminal Breach of Trust as a servant against one Chua Ah Luck did conduct yourself in a manner which would bring the public service to disrepute, to wit, you allowed or arranged for one Yap Sing Waa, Assistant Manager-cum-Director of M/s Siptraco Pte. Ltd., Republic of Singapore, who was the complainant in the abovementioned case, to bear the expenses of your passage to Kuala Lumpur and other expenses incurred during the trip by you and your wife, whom you had brought along to Kuala Lumpur.

b. That you, between 3 p.m. on the 1st day of March, 1975 and 12 noon on the 2nd day of March, 1975, did accept for yourself and your wife Mdm. Koh Yan Choon, entertainment, to wit, the expenses of the passage from Kuala Lumpur, West Malaysia to the Genting Highlands and other expenses incurred during this trip from a member of the public who had official dealings with you, namely Yap Sing Waa, the Assistant Manager-cum-Director of M/s Siptraco Pte. Ltd., Republic of Singapore, such entertainment being of such a character as to place you under a real or apparent obligation to the said Yap Sing Waa, and you have thereby contravened paragraph L 91 of Instruction Manual No. 2 made applicable to you by the Police General Orders.

c. That you, sometime in May 1976, did attempt to interfere with the investigations of the Corrupt Practices Investigations Bureau, Republic of Singapore, into allegations of corrupt practices against you by asking one Yap Sing Waa, an Assistant Manager-cum-Director of M/s Siptraco Pte. Ltd., Republic of Singapore, through one Lee Ah Kow @ William Yeo of No. 2 Jalan Tembusu, Republic of Singapore, to inform the Corrupt Practices Investigation Bureau that you had paid for your wife's passage when she accompanied you to Kuala Lumpur in February/March 1975, and you have thereby conducted yourself in a manner prejudicial to the good order and discipline of the Singapore Police Force.

2. ....

3. In accordance with Paragraph (2) of Regulation 4 of the said Regulations, you are requested to state in writing on or before the expiry of seven working days from the date of receipt of this letter any representations you may wish to make to exculpate yourself from the charges referred to above.

4. For your information, upon conclusion of the disciplinary proceedings and in accordance with the merits of the case, the Public Service Commission is authorised by sub-section (2) of section 28A of the Police Force Act to impose upon you any of the punishments prescribed in section 27 or 28 of the said Act, whichever is appropriate. The Commission may also require your dismissal or retirement from the Police Force as it deems appropriate.

5. ....

6. ....

Sections 27, 28 and 28A of the Act, the said Regulation 4, and Paragraph L 91 of the Instruction Manual No. 2, referred to in Charge b, are set out in Schedule A hereto annexed.

In compliance with paragraph 3 of the above letter the plaintiff submitted to the Public Service Commission (P.S.C.) his exculpatory statement on April 26, 1977, wherein he categorically denied all the 3 charges brought against him. The P.S.C., not finding the exculpatory statement satisfactory, appointed a Committee of Inquiry (Committee) under Regulation 4(3) of the Regulations.

By a letter dated July 9, 1977, the Chairman of the Committee (the Chairman) wrote to the plaintiff in the following terms: —

"1. I refer to the letter MHA 0248/72-28 Pt A dated 6 April 1977 from the Permanent Secretary (Home Affairs) to you in regard of the charges preferred against you under Regulation 4 of Public Service (Disciplinary Proceedings) Regulations, 1970, and your letter of exculpation dated 26 April 1977 in reply to him.

2. As I have been appointed Chairman of the Committee of Inquiry by the Public Service Commission to conduct the proceedings relating to the above charges, please let me know within one week from the date of this letter:

a. whether you wish to make an application to be represented by a friend, who should also be a public officer, or by an advocate so that the Committee can consider and decide on your application;

b. the names, addresses, designation or occupation of the witnesses whom you intend to call to be present at the Inquiry so that, at the appropriate time, they may be called to give evidence at the Inquiry;

c. whether you would require the services of interpreters during the Inquiry;

d. whether you wish to tender any documentary evidence to the Committee. If you wish to do so, you should forward 6 copies each of the documents to me.

3. You may wish to know that the Committee of Inquiry comprises the following members:

a. Mr. Kong Yew Chye	—	Chairman
b. Mr. Steven Sim See Loy	—	Member
c. Mr. Tan Choon Seng	—	Member

4. On receipt of your reply, a date will be fixed for the Inquiry into your case to commence."

In reply to the Chairman's letter, Messrs. Chan & Ling, Advocates and Solicitors acting on behalf of the plaintiff wrote to the Chairman on July 14, 1977 as follows: —

"We have been consulted by Inspector Lee Keng Kee and handed your letter of the 9th instant with instructions to reply thereto.

We have instructions to act for him at the Inquiry.

Tentatively our client would be calling the following witnesses:—

1. Mr. Yeo Kim Chua	Police
2. Mr. Ng Leng Hua	Police
3. Mr. Bogaars	Police
4. Mr. Yap Sing Woa	Siptraco Pte Ltd
5. Mr. Peh Hong Kee	Siptraco Pte Ltd

6. Mr. Lee Ah Kow @ William Yeo	No. 2 Jalan Tembusu
7. Mr. John Tay	CPIB
8. Mdm. Koh Yan Choon	Wife of our client"

On August 26, 1977, the Chairman wrote to Messrs. Chan & Ling in the following terms:

"Thank you for your letter dated 24 August 1977.

2. Please be informed that the prosecution as well as the defence are to ensure that their own witnesses will be available to give evidence before the Inquiry at the appointed time and place. The Committee has had no power to subpoena any witness to attend the Inquiry. Similarly in the case of production of documentary evidence, the parties concerned will have to present the papers and submit them to the Committee before the commencement of the Inquiry. Such papers will be circulated to the members of the Committee and to the prosecution and defence counsel so as to give them sufficient time to prepare their case. If the mentioned files are relevant to your client's case, it will be necessary for you to submit them to the Committee early.

3. Action will be taken to provide interpreters to assist your witnesses."

On August 30, 1977 Messrs. Chan & Ling wrote the following circular letter to ASP Yeo Kim Chua, Supt. Ng Leng Hua, Asst. Commissioner Bogaars and three other witnesses who had been named in Messrs. Chan & Ling's letter of July 14, 1977: —

"We act for the abovenamed inspector in respect of an inquiry which has been scheduled to be held on Tuesday, 6th September at 9.00 a.m. at the Ministry of Home Affairs, Phoenix Park.

You are required to be present on the above date and time to give evidence."

On August 31, 1977 O.C. "B" Division, A.G. Aeria, wrote to Messrs. Chan & Ling, copied to the Chairman, asking them to note that Superintendent Ng Leng Hua had left the Republic for Stockholm/UK for Meeting/Vacation Leave on August 30, 1977 and that he would be resuming duty on October 14, 1977.

The plaintiff appeared by counsel before the Committee of Inquiry on September 6, 8 and 9, 1977 when the inquiry was concluded and the plaintiff was informed that he would be notified of the result in due course.

The next thing that happened was that the plaintiff was informed by a letter dated December 7, 1977, from the Acting Permanent Secretary, Ministry of Home Affairs that he had been dismissed from the service with effect from the day following the date the said letter was received by him.

As the said letter did not say whether the plaintiff had been found guilty on all the said charges or any one or more of them, the plaintiff's solicitors on May 24, 1978 inquired of the Permanent Secretary the charges on which the plaintiff had been found guilty. A reply was received saying that the plaintiff had been found guilty on charges (a) and (b) as set out above.

It was in these circumstances that the plaintiff commenced this action against the Government of the Republic of Singapore. He says that the proceedings before the Committee of Inquiry were conducted in breach of the Regulations and were contrary to the rules of natural justice and in violation of the duty imposed on the said Committee to act fairly thereby rendering any finding or decision based on the proceedings before the said Committee or its recommendations null and void.

Alternatively, the plaintiff says that there was no sufficient evidence before the Committee to warrant the finding that the plaintiff was guilty of the said charges (a) and (b) and that such a finding was wrong in law.

Further in the alternative the plaintiff says that the findings on the said 2 charges were so arbitrary and capricious that no reasonable person could have come to such findings on the evidence before the said Committee.

And lastly, he says that the P.S.C. has contravened the provisions of Article 78(3) of the Constitution of Singapore by not giving him a reasonable opportunity of being heard before he was dismissed from the Police Force.

And so, the plaintiff asserts that his dismissal is null and void for the aforesaid reasons and accordingly claims: —

(i) A declaration that his purported dismissal on or about December 11, 1977 from the service of the Singapore Police Force is null and void and

(ii) A consequential declaration that he had continued to be and still is an Inspector in the said Force and entitled to be remunerated as such.

At the trial of this case, Mr. Jeyaretnam, counsel for the plaintiff, put the case for the plaintiff under four heads: —

Head 1

(a) That the Chairman had before him at the Inquiry the statements of 3 Police Officers, i.e. ASP Yeo Kim Chua, Supt. Ng Leng Hua and Asst. Commissioner Bogaars, made to the Corrupt Practice Investigations Bureau (C.P.I.B.) and that he had not made available the 3 statements to the plaintiff;

(b) That the plaintiff was refused an adjournment or postponement to await the return of Superintendent Ng Leng Hua and so was denied an opportunity of calling a most material witness to give evidence for him before the Committee;

(c) That even if an application for adjournment had not been made, which was not admitted as being the case, the Chairman, knowing that the plaintiff had wanted to call Superintendent Ng Leng Hua and knowing that the Superintendent was unable to be present before the Committee, should, of his own volition, have adjourned the hearing or, before starting the inquiry, should have invited Mr. Ling to say whether the inquiry was to continue in the absence of Ng Leng Hua which, it was agreed, was not done.

Head 2 — The plaintiff was not given a reasonable opportunity to be heard before he was dismissed the service and so was denied his constitutional rights as a Police Officer, under the Article 78(3) of the Constitution of Singapore, now Article 110(3) of the Reprint of the Constitution of Singa-

pore (Present Constitution) read with sections 27, 28 and 28A of the Police Act. Article 78(3) enacts that,

"No public officer shall be dismissed or reduced in rank under the provisions of this Article without being given a reasonable opportunity of being heard."

Head 3 — That there was no sufficient evidence before the Committee on which it could reasonably find the plaintiff guilty of the 2 charges; that the findings of the Committee were so arbitrary and capricious that no reasonable person could have come to such findings on the evidence before it;

Head 4 — That two members of the Committee, namely, the Chairman and another are members of the same Ministry, i.e. Ministry of Home Affairs, as that of the plaintiff;

Head 1(a) — Statements of the 3 Police Officers:

The evidence of Mr. Ling, who was counsel for the plaintiff at the Inquiry, was that statements of the 3 Police Officers were never given to him at any time before or during the inquiry. He had noticed a file marked "CPIB" in front of the Chairman and that when Yeo Kim Chua, Deputy Superintendent was giving evidence the Chairman was referring continuously to a type written statement. His impression was that it might have been the statement of Deputy Superintendent Yeo. He did not ask the Chairman what that file was.

The plaintiff in his evidence before me said that he had been supplied with his own statement and those of Yap Seng Hua, Pek Hong Kee, Teh Ee Hua and Lee Ah Kow taken by the C.P.I.B. No statement to the C.P.I.B. of any police officer involved had been given to him. During the inquiry he had seen a file, which had written across it C.P.I.B., before the Chairman and that he (the Chairman) was referring to it from time to time.

Cross-examined by Mr. Chao, State Counsel, he said,

"When Yeo Kim Chua was giving evidence the Chairman was paying special attention to the contents of the file. So I strongly believe it was Yeo's statement that the Chairman was looking at. I can only say that I believe it was so. The C.P.I.B. investigator told me that the statement of 3 Police Officers not in my favour. It was because of that that I thought these 3 statements were in this file."

The Chairman's evidence on this was that copies of whatever documents he had received in connection with the inquiry had been sent to Committee members and the other concerned party. He categorically denied having received any statements of the 3 Police Officers or that he had a C.P.I.B. file before him. He stated that he had had no access to C.P.I.B. files either before, during or after the inquiry. He had his own two files before him at the inquiry and no other.

Mr. T.T. Durai, then State Counsel who was presenting the case against the plaintiff, stated quite clearly that he had not sent copies of the three Police Officers' statements to the Chairman and that the C.P.I.B. file relating to this investigation had always been in his possession and that he had not taken it into the Committee hearings at any time during the inquiry.

On this issue I am satisfied that both the plaintiff and Mr. Ling are mistaken in their surmise that the statements of the three Police Officers were in the possession of the Chairman as suggested by them.

Head 1(b) Request for Adjournment of Hearing — On this aspect of the case the evidence of Mr. Ling before me was that

"on the 3rd or 4th September 1977 I received a telephone call from the Chairman. He told me Ng Leng Hua was away at a meeting and that after the meeting he would be taking his leave in Europe and the Committee would not be able to wait for him to come back to give evidence. The reason he gave was that the Committee would have to put up a report within a short time as there had already been some delay in the matter. My impression was that the Chairman would not be prepared to grant me adjournment. I told him that it is perhaps a little early to talk about this as the Inquiry could drag on for some time. I told the Chairman the evidence of Ng Leng Hua vital to my client's case. I also told him when the time comes we will make the application if necessary."

He went on to say,

"After Mr. Yeo Kim Chua had completed his evidence I told the Chairman before the adjournment that I would like Mr. Ng Leng Hua to give evidence. In reply the Chairman said Ng Leng Hua was away overseas. I told him his evidence would be very vital in this case. The Chairman said it would be quite sometime before Mr. Ng would be back in Singapore and that the Committee would have to put up a report within a short time and I asked him whether the Inquiry could be adjourned. The Chairman said that the Inquiry would have to continue without the evidence of Mr. Ng. I did not press for an adjournment. I made no reply to what he said. The hearing was adjourned to the next day. The plaintiff gave evidence on the next day and the Inquiry was concluded the next day. I did not tell the Chairman that I would dispense with the attendance of Mr. Ng Leng Hua. After hearing the witnesses I still considered the evidence of Mr. Ng Leng Hua very vital."

As for the plaintiff, his evidence was,

"After Mr. Bogaars Mr. Yeo was recalled. Mr. Ling then told the Chairman of the Committee he was calling Mr. Ng Leng Hua. The Chairman told Mr. Ling that Mr. Ng was away in Europe for a meeting and would continue to be away after the meeting for a holiday. The Chairman also said the Committee had to present a report and as such he was unable to adjourn the Inquiry any further. Mr. Ling's intention was to get an adjournment. He insisted that Mr. Ng be called. The Chairman replied that the Inquiry had to be concluded soon so that he could present a report to the P.S.C. soon. Nothing else was said. The Chairman refused to grant the adjournment."

As against this the Chairman in his evidence is quite emphatic that no such application, or even any mention of it, was made to him at any time before or during the 3 day hearing. And he even more emphatically denies that any telephone conversation, some time prior to the hearing on September 6, 1977, ever took place. Mr. Stephen Sim, the outside member of the Committee, has no recollection of any application for postponement being made to the Committee or to the Chairman at any time during the proceedings or during the breaks. As for Mr. Durai he is equally emphatic (1) that he had himself not been approached by Mr. Ling about any adjournment either before or during the 3 day inquiry and (2) that no application was made to the Committee or the Chairman at any time during the 3 day hearing.

On this I accept the evidence of the Chairman and Messrs. Stephen Sim and T.T. Durai. I am satisfied that no such application for an adjournment was made to the Committee of Inquiry or its Chairman.

Head 1(c) Chairman's Duty to be Fair — Natural Justice — On this submission, Mr. Jeyaretnam called to his aid the case of *Priddle* v. *Fisher & Sons.*[1] In this case Priddle, the appellant, who was dismissed by his employers with one month's notice, claimed to be entitled to a redundancy payment, which his employer refused. He appealed to an industrial tribunal and arranged to attend the hearing and to be represented by a trade union representative. On the day of the hearing, the representative was taken ill. The appellant decided to conduct his own case but was prevented from travelling by snow. He caused a telephone message to be sent to the tribunal, who had just started the hearing of this application. According to the Chairman's notes, the message received by the tribunal's clerk was that owing to the illness of his representative the appellant would not be attending and that he did not ask for an adjournment. On that information, the tribunal decided to proceed with the hearing, although they knew that the appellant had intended to appear and prefer his claim. Before the hearing ended they received a message from the representative apologising for his absence through illness. The tribunal, however, continued with the hearing and dismissed the application.

On appeal by the appellant on the ground that the tribunal erred in law in failing to adjourn, having regard to the circumstances of his absence and that of the union representative, the court allowed the appeal, holding that, in the circumstances the tribunal had exercised wrongfully the discretion to dispose of an application in the absence of a party knowing that the appellant was unable to attend and that the tribunal should have adjourned unless satisfied that he was inviting them to continue the hearing in his absence.

Counsel relied strongly on a passage in the judgment of Chief Justice Lord Parker which reads: —

"The matter can be put in many ways but the way in which it appeals to me is that a tribunal is acting wrongly in law if, knowing that an appellant has all along intended to attend and give evidence in support of his claim, and being satisfied, as they must have been, that he was unable for one reason or another to attend, they refuse to adjourn merely because he had not asked expressly for an adjournment. Before deciding to continue the tribunal should be satisfied that he was inviting them to continue in his absence. The matter is even more clear when one realises here that the burden is on the employers and the appellant has a right to cross-examine them to show, if he can, that the reason given for dismissal was a disguise for a dismissal on the ground of redundancy."

On a proper analysis I do not think that the *Priddle* case, the facts in it being what they are, really helps the plaintiff. In the cited case the absent parties at the Tribunal were the appellant himself and his counsel. The Tribunal knew that the appellant intended and wanted to appear and prefer his claim. The Tribunal was informed by its clerk that the union representative could not attend because of illness and according to the Chairman's notes the message received by the Tribunal clerk was that owing to the illness of the union representative the appellant would not be attending and that he did not ask for a postponement. In reality the appellant had intended to go to the hearing without his representative and to conduct his own case but unfortunately was prevented from doing so by snow. It must have become apparent to the court that there was a failure of communication between the clerk and the Tribunal and as a consequence of this failure there could, in fairness to the appellant, have been only one result to the appeal. The facts in our case are vastly different. The plaintiff and his counsel appeared at the inquiry. A list of 8 names was given to the Chairman as *tentative* witnesses and of these the plaintiff called only 3. Although the Chairman, on his evidence, at some point of time during the inquiry, did think that Superintendent Ng Leng Hua's evidence was material to plaintiff's case I do not think that in the circumstances it was any part of the Chairman's duty to advise the plaintiff as to whether or not he (the plaintiff) should call Superintendent Ng Leng Hua as his witness, more especially as he was being represented by learned counsel. Had I been Chairman of the Inquiry Committee and had I been given, in response to my request, as indeed it was what had happened in the instant case, a list of tentative witnesses by plaintiff's counsel, I would perhaps from excess of caution, have said to counsel at the end of his case, something to this effect, "You have given the Committee a list of 8 tentative witnesses. Of these you have called 3 only, are you therefore proposing to dispense with the testimony of the rest of them." On counsel saying that he did not wish to call any a record of it would have been made. If counsel had said that he wanted to call Superintendent Ng Leng Hua I would have granted an adjournment. However, in the particular circumstances of the instant case the absence of such a question does not, in my view nullify the proceedings as being contrary to the principles of natural justice.

I am fortified in this view by the Privy Council case of *University of Ceylon* v. *Fernando.*[2] In that case the Vice-Chancellor of the University of Ceylon, acting under a General Act of the University, appointed a commission of inquiry, consisting of himself and two others, to assist him in inquiring into certain allegations which had been made by a Miss Balasingham, a student, and which, if they were true, were explicable only on the footing that Fernando, a student, who was taking a university examination, had acquired knowledge of a German passage in one of the examination papers before taking the examination. Fernando was informed by letter of the allegation against him and of the appointment of the commission, and was asked to attend before the commission on two occasions. Fernando attended before the commission, when it was made clear to him, so the court found, what the charge was and he was given an opportunity to state his case. When other witnesses, including Miss Balasingham, gave evidence before the commission Fernando was not present. Fernando did not ask that he should be allowed to question any of these witnesses. Two witnesses, other than Fernando and Miss Balasingham, were questioned by the Vice-Chancellor alone, in the absence of the other members of the commission. The commission found that the allegation against Fernando was true and reported accordingly. The Board found Fernando guilty of an examination offence and suspended him indefinitely from all university examinations. Fernando brought an action against the university for a declaration to the effect that the decision was null

and void on the ground that the inquiry was not conducted in accordance with principles of natural justice. On appeal against an order of the Supreme Court of Colombo granting the declaration, it was not disputed that the inquiry was a quasi-judicial, not an administrative proceeding.

On these facts it was held that the fact that the commission did not tender Miss Balasingham, or any other witness, for cross-examination by Fernando was not a failure to comply with the rules of natural justice, but the position might have been different if Fernando had asked to be allowed to cross-examine Miss Balasingham and had not been allowed to do so.

On this issue Mr. Jeyaretnam also cited the case of *R.* v. *General Medical Council, Ex parte Spackman.*[3] Here the Court of Appeal held that by reason of the refusal of the Council to hear certain fresh evidence, the "due inquiry" required by the Medical Act, 1858 had not been held and there had been failure of natural justice. I do not think this case assists him as I have already held that in our case there had been no application for a postponement of the hearing to enable Superintendent Ng Leng Hua's evidence to be taken.

Heads 3 and 4 — I propose to deal with these two heads together before I deal with Head 2. Although Mr. Jeyaretnam had raised these two matters on the pleadings and at the outset of the trial I do not think that he, at the close of his case, thought that there was as much substance in them as he had thought there might have been in them at the beginning. If I am right in so thinking then I do not disagree with him and pass on to the last head of his argument, which he took seriously and, indeed, in my view, is the crux of the matter.

Head 2 — Article 110(3), 110(4) of the Present Constitution.

Article 110(3) (being Article 78(3) of the Constitution of Singapore and Article 135(2) of the Constitution of Malaysia) and Article 110(4) (being Article 135(1) of the Constitution of Malaysia) are intended to secure the tenure of office of those who by Article 102(1) of the Present Constitution (being Article 70 of the Constitution of Singapore) are holders of office in (a) the Singapore Armed Forces on its civilian side, (b) the Singapore Civil Service, (c) the Singapore Legal Service and (d) the Singapore Police Force.

Clauses (3) and (4) of Article 110 read: —

"(3) No public officer shall be dismissed or reduced in rank under the provisions of this Article without being given a reasonable opportunity of being heard.

(4) No member of any of the services mentioned in paragraphs (b) to (d) of clause (1) of Article 102 shall be dismissed or reduced in rank by an authority subordinate to that which, at the time of the dismissal or reduction, has power to appoint a member of that service of equal rank."

It is not in dispute that Article 135(2) of the Constitution of Malaysia has had constitutional force in Singapore as from September 16, 1963 and has continued to be so in spite of the separation in August 1965 of the Federation of Malaysia from Singapore.

In June 1970 the Constitution of Singapore was amended by the Constitution (Amendment) Act 1970, being Act 13 of 1970, by deleting Part IV thereof and substituting therefor a new Part IV entitled "The Public Service". This amendment enacted Article 78(3), which is in similar terms as Article 135(2) of the Malaysian Constitution, and Article 72 which is analogous to Article 132(2A) of the Malaysian Constitution. There was no exact equivalent to Article 135(1) of the Constitution of Malaysia enacted in our Act 13 of 1970 but Article 110(4) of our Present Constitution has taken in substantially the provisions of the said Malaysian Article.

Lord Reid in his speech in the case of *Ridge* v. *Baldwin*[4] says that cases of dismissal of persons in employment "appear to fall into 3 clauses,

(1) Dismissal of servant by his master;

(2) Dismissal from an office held during pleasure; and

(3) Dismissal from an office where there must be *something* (emphasis mine) against a man to warrant his dismissal." (Page 71F).

He then goes on to elaborate: —

"The law regarding master and servant is not in doubt. There cannot be specific performance of a contract of service and the master can terminate the contract with his servant at any time and for any reason or for none. But if he does so in a manner not warranted by the contract he must pay damages for breach of contract. So the question in a pure case of master and servant does not at all depend on whether the master has heard the servant in his own defence: it depends on whether the facts emerging at the trial prove breach of contract. . . .(71G)

Then there are many cases where a man holds an office at pleasure. Apart from judges and others whose tenure of office is governed by statute, all servants and officers of the Crown hold office at pleasure and this has even been held to apply to a colonial judge. It has always been held, I think rightly, that such an officer has no right to be heard before he is dismissed and the reason is clear. As the person having the power of dismissal need not have anything against the officer, he need not give any reason. . . . (71 I)

I fully accept that where an officer is simply held at pleasure the person having power of dismissal cannot be bound to disclose his reasons. No doubt he would in many cases tell the officer and hear his explanation before deciding to dismiss him. But if he is not bound to disclose his reason and does not do so, then, if the court cannot require him to do so, it cannot determine whether it would be fair to hear the officer's case before taking action." (72A)

In the instant case, the plaintiff neither falls into the first class, that of master and servant, nor the second, that of holding office during pleasure. It is common ground that a Police Inspector's tenure of office is governed by the Act. He therefore falls into the third class, that of a person holding office where there must be "something" against him to warrant his dismissal. In this class of cases an officer cannot lawfully be dismissed without first telling him what is alleged against him and hearing his defence or explanation (*Ridge* v. *Baldwin* 72D).

Section 27(1) of the Act specifies the offences in respect of which an inspector may, under section 28(1) of the Act, be dismissed or retired from the Police Force or be punished with any of the following punishments — (a) reduction in rank or seniority, (b) deferment or stoppage of increment, (c) reprimand, (d) caution and (e) in lieu of or in addition to any of the aforesaid punishments, a fine not exceeding $200. The said specified offences are the "something" in Lord Reid's third class, which must be present to

warrant dismissal of an Inspector from the Police Force.

A reading of Part IX of the Present Constitution (Part IV of the Constitution of Singapore) in my view, shows that the provisions therein neither derogate from nor enlarge on the provisions securing an Inspector's tenure of office under the Act. What Article 110(3) does for an Inspector of Police is that it entrenches in the Constitution the right of being heard before dismissal or reduction which he had previously enjoyed under the Act.

Mr. Jeyaretnam seeks to persuade me that, even if the Committee, acting within the ambit of its powers, cannot be faulted for a failure of natural justice on its actual hearings on the three charges and its findings thereon, there has, in the events which have happened in the instant case, been a contravention of the plaintiff's constitutional rights under the then Article 78(3) (Now Article 110(3)) read with sections 27, 28 and 28A of the Act in that he has been dismissed from the Police Force by the P.S.C. without having been given a reasonable opportunity of addressing them on the matter of punishment. It is not in dispute that the Committee's powers were only to investigate the three charges and report on them, after due inquiry, to the P.S.C.

Does Article 110(3) of the Present Constitution — old Article 78(3); Malaysian Constitution Article 135(2) — require a public officer to be given two separate hearings, one at the time of the investigation of the charge or charges against him (in our case by the Committee) and the other when, and if, the question arises as to the proper punishment to be imposed on the public officer in the light of the evidence adduced before the Committee and its findings (in our case by the P.S.C.).

I have already held that the Committee in its hearings on the 3 charges against the plaintiff had acted fairly and in conformity with the principles of natural justice. This still leaves me with the question, whether on the facts of the instant case the plaintiff had been *heard* by the P.S.C., in conformity with Article 110(3), before he was dismissed. It is not in dispute that neither the Committee nor the P.S.C. had invited the plaintiff to say anything on punishment.

On this question the relevant facts are (1) The inquiry on the three charges was concluded on September 9, 1977 and the plaintiff was informed by the Committee that he would be notified in due course; (2) The Committee had no authority or power to deal with, nor did it invite submissions on punishment; (3) No submissions were made by the plaintiff to the Committee as to punishment; (4) There was no invitation by P.S.C. to the plaintiff either to address them on punishment or to show cause why he should not be dismissed; (5) The next thing that took place was the letter dated December 7, 1977, from Acting Permanent Secretary, Ministry of Home Affairs, conveying the bare decision of the P.S.C. to the plaintiff that he had been dismissed from the service.

Mr. Chao for the Attorney-General, on the other hand, says that the case having been referred to the P.S.C. by the Commissioner of Police acting under section 28A of the Act and disciplinary proceedings having been taken against the plaintiff under Regulation 4 of the Regulations and the plaintiff having been so notified Article 78(3) (Present Article 110(3)) had been complied with (1) when the plaintiff was informed in the letter of April 6, 1977 of the three charges and of the possible penalties under section 28 of the Act; (2) when he was invited to put in an exculpatory statement on the three charges, which he did on April 2, 1977, and (3) when the three day hearing before the Committee was concluded, without it violating the principles of fairness and natural justice. He says that, the Committee having heard the plaintiff on the three charges, there is no necessity in law to give him a *separate* hearing before punishment is imposed as disciplinary proceedings, under Regulation 4 of the Regulations, are only commenced, as in the case here, where the punishment can only be one of two things, either dismissal or reduction in rank. Natural justice, he goes on to say, only requires that an employee should be given a chance to answer any allegation made against him before action is taken against him. He cited *Fernando's* case, referred to by me already, and 4 other cases, 3 from Singapore and the other one from Malaysia, as having relevance to his submissions. The three Singapore cases are: —

(1) *Ling How Doong* v. *Attorney-General*[5] (Winslow J.).

(2) *Jacob* v. *Attorney-General*[6] (Wee Chong Jin C.J.).

(3) *Sithambaran* v. *Attorney-General*[7] (Tan Ah Tah J.).

The Malaysian case is that of *Najar Singh* v. *Government of Malaysia & Anor.*[8] (P.C. Viscount Dilhorne).

I do not think *Fernando's* case assists Mr. Chao in the issue of whether a second hearing and/or a separate hearing is necessary to comply with Article 110(3). It only deals with and is authority for matters relating to the conduct of inquiry proceedings.

The *Najar Singh* case, in so far as it is pertinent to the instant case, decides that the expression "being heard" used in the Article need not necessarily mean "being heard orally". At page 205 (1st and 2nd paragraphs) Viscount Dilhorne says: —

"The appellant does not complain that he was not informed in writing of the grounds on which his dismissal was to be considered. He does not complain of a breach of regulation 27 in that respect. His complaint is that he was not given an opportunity of being heard orally before being dismissed and he contends that regulation 27, which in this respect follows Article 135(2) of the Constitution, requires that before being dismissed he should have been given such an opportunity. He contends that 'being heard' means 'being heard orally'.

The word 'heard' does not invariably connote an oral hearing. It can be used and is not infrequently used in relation to something written. The question, 'Have you heard from X', often means, 'Have you had a letter from X?'. Its meaning must depend on the context in which it is used and the context in which it is used in these regulations shows that in regulation 27 it cannot have been intended only to mean an oral hearing. Regulation 27 has to be read with regulation 30 and that makes no provision for an oral hearing if the officer fails to make representations in writing or the representations he makes in writing do not exculpate him. It is only if a Committee of Inquiry is appointed that he will be given the opportunity of giving oral evidence."

The Regulation 27 referred to in the passage requires that an officer be afforded "a reasonable opportunity of being heard". Mr. Jeyaretnam does not dispute this proposition but says that in the particular circumstances of the instant case the P.S.C. should have asked the plaintiff, either, as to what he had to say on punishment, more especially as there was no fixed punishment for the offences, or to show cause, as was done in the *Najar Singh* case, as to why he should not be dismissed the Police Force.

Now let me deal with the three Singapore cases in order of time.

The Case of Ling How Doong —

"The plaintiff, an inspector attached to the Special Branch, had on June 14, 1965, four charges preferred against him for breaches of discipline under the Police Force Ordinance. The then acting Commissioner of Police, Singapore Component, Royal Malaysian Police, appointed a board to conduct a disciplinary enquiry in accordance with the Police Regulations, 1959. The board found the plaintiff guilty of two out of the four charges (as amended in the course of the proceedings). The Commissioner informed the plaintiff that the board had found him guilty of two charges and that he had accepted the board's finding and decided to impose a fine of $50 for the first charge and to reprimand him for the second charge.

The plaintiff being dissatisfied with the decision appealed against it. The Public Service Commission after hearing the appeal, decided that he should be dismissed from the service. The plaintiff then commenced action claiming declaration and damages."

Mr. Justice Winslow, who tried the case in the High Court, gave judgment for the plaintiff for the reason that the P.S.C. had no power, whatsoever, to enhance the sentence as imposed by the Commissioner of Police. In the course of his judgment the learned trial judge went on to say,

"If the Public Service Commission had intended to act in exercise of its original powers as the appointing as well as the dismissing authority, it should, in my view, have given the plaintiff an opportunity of being heard on the proposed punishment of dismissal. He should have been informed that it was proposed to dismiss him and he should have been given a reasonable opportunity of being heard as to the reasons why such a course should not be taken. Then only could it have been said that the requirements of article 135(2) had been complied with."

(Page 259 last para. r.h.c.).

The case went on appeal to the Federal Court in Singapore (Wee Chong Jin C.J., Tan Ah Tah F.J. and Chua J.) reported at page 154 of [1969] 1 M.L.J. The Federal Court of Appeal dismissed the appeal and in doing so the Chief Justice of Singapore Mr. Wee Chong Jin had this to say,

"The right to be heard is, as the Privy Council has said in *B. Surinder Singh Kanda* v. *The Government of the Federation of Malaya*, an essential characteristic of what is called natural justice and is the expression of the concept of fairness. Admittedly, in the present case the Public Service Commission had acted in reliance on the disciplinary board's findings and on all the evidence placed before that board. But it had failed, in our opinion, in one fundamental respect to observe the test of fairness. Inspector Ling could not know and could not reasonably be expected to know that the Public Service Commission was considering, not his guilt or innocence on the charges which the board had found proved against him, not whether his punishment of a fine and reprimand by the Commissioner of Police was excessive in the circumstances, but whether or not to dismiss him on the proved charges.

In our opinion, on the facts and circumstances of this case, he had a right to know his dismissal was under consideration by the Public Service Commission and therefore a right to be heard on the question of his dismissal. He ought to have been given the right to defend himself on the question of dismissal because he did not know and could not reasonably be expected to know that the Public Service Commission was considering the matter de novo and not as an appeal by him against his conviction and sentence. If he had been given the right to be heard on dismissal he might well defend himself by urging that it was not fair or it was *ultra vires* the Public Service Commission to put him in double jeopardy i.e. that he had already been punished once and should or could not be punished again on the same facts."

The Jacob Case — Here disciplinary proceedings were commenced against one Jacob, an officer in the Ministry of Health, under Regulation 4 of the Public Service (Disciplinary Proceedings) Regulations, 1962 (Old Regulations) which reads: —

4.—(1) If it is represented to the Public Service Commission by a Permanent Secretary that an officer has been guilty of misconduct or neglect of duty and the Public Service Commission is of opinion that the misconduct or neglect of duty alleged warrants *proceedings with a view to dismissal* (italics are mine), the Public Service Commission may cause proceedings to be taken under this regulation.

It is to be noted that where disciplinary proceedings were commenced under old Regulation 4 such proceedings were commenced only *with a view to dismissal*. Under the present Regulation 4 disciplinary proceedings are commenced only when the P.S.C. intends either to dismiss or reduce in rank the public officer concerned.

In this case, Mr. Wee Chong Jin C.J. held that, where the public officer is informed categorically that the question of his dismissal from the public service is under consideration on grounds clearly indicated in the letter informing him of the inquiry and also where later the Chairman of the inquiry committee had stated by his letter to him, written after his exculpatory statement had been received, that the "question of dismissal will be brought before the committee on Monday, November 4, 1963, at the sitting of the Committee" it was not necessary to give the public officer a second opportunity to be heard. In dismissing the plaintiff's case the learned Chief Justice, *inter alia*, had this to say, "the point that was taken by the plaintiff in his statement of claim as amended on the day of the hearing and that was urged before me by his counsel at the hearing, is that under Article 135(2) the committee of inquiry must, *inter alia*, give the plaintiff the right to make representations as to the punishment to be imposed. The relevant facts, which are not in dispute commence from the said letter dated June 26, 1963 written by the Permanent Secretary (Health) to the plaintiff. It is to be observed that in that letter the plaintiff was informed in clear language that the question of his dismissal from the public service on grounds fully spelt out in the letter was under consideration. It is also to be observed that the Chairman of the committee of inquiry informed him by letter on October 25, 1963 that the "question of your dismissal" will come up on November 4, 1963.

"In my opinion the plaintiff was left in no doubt at all that if the charges against him were proved he might suffer the extreme penalty of all, namely dismissal from the public service. It follows, in my view that he had, at the earliest stage in the matter, been afforded the opportunity to make representations to the committee of inquiry, if he so wished, as to why he should not suffer the contemplated penalty of dismissal on the charges enumerated against him. He could

have availed himself of the opportunity to be heard on the contemplated dismissal.

Lastly, it is clear from a perusal of the record of the evidence and the statements before the committee of inquiry that the plaintiff did not avail himself of the opportunity to make representations on the question of punishment and it is not alleged that there was any refusal on the part of the committee of inquiry to hear him on the question of punishment. It follows, in my judgment, on the pleadings, on the arguments put forward on behalf of the plaintiff by his counsel and on the facts that the committee of inquiry did not fail to give nor did it deny the plaintiff the right to make representations on the question of punishment."

In the instant case the plaintiff was not categorically told, as was done in the *Jacob* case, that the question of his dismissal from the Police Force was under consideration. In fact what he was categorically told, as being under consideration, is set out in paragraph 4 of the first letter written by the Acting Permanent Secretary dated April 6, 1977 and the punishments there envisaged could be any one of seven punishments ranging from a paltry fine not exceeding $200 to the extreme punishment of dismissal from the Police Force. Further, in the *Jacob* case the Committee was presumably empowered to hear submissions on punishment, and, what is more, did, in fact, invite such submissions. In our case the Committee was neither empowered nor did it, for it could not, invite representations on punishment, if found guilty, on the charges. Even if Mr. Chao's submissions on the current Regulation 4 are accepted as notifying the plaintiff of dismissal or reduction in rank the plaintiff neither had nor was given any opportunity of saying anything on these punishments either to the Committee or the P.S.C.

It is further to be noted that in the *Jacob* case, where there was only a single possible punishment under old Regulation 4, namely dismissal, the learned Chief Justice was of the view that the public officer was entitled to be told of this specifically and be given the opportunity to say something on punishment even though such punishment was mandatory.

The Sithambaran case — Here the plaintiff, a corporal in the Singapore Police Force, sought a declaration that his purported dismissal from the Force was *ultra vires*, null, void and inoperative and that he was still a corporal. It was argued on his behalf, *inter alia*, that he was not given a reasonable opportunity of being heard before he was dismissed. The plaintiff's case was dismissed, the court holding, amongst others, that he had been given a reasonable opportunity of being heard before he was dismissed, and that there had been no contravention of Article 135(2) of the Constitution of Malaysia. The learned trial judge, Tan Ah Tah J., found

"as a fact that after Mr. Koh (the Inquiry Officer) had informed the plaintiff that he had found him guilty on the first and third charges he asked the plaintiff whether he had anything to say in mitigation which was recorded by Mr. Koh"

(page 177B).

Having so found the learned judge then went on to say,

"In the present case the plaintiff was in my view given a reasonable opportunity of being heard before he was dismissed. He was in fact given the same opportunity of being heard as is given to accused persons in the courts in Singapore after conviction but before sentence was passed. In my opinion there has been no contravention of Article 135(2) of the Constitution of Malaysia."

(Page 177H).

In our case the facts are that neither the Committee nor the P.S.C. asked the plaintiff whether he had anything to say in mitigation nor was he given the same opportunity of being heard as is given to accused persons in the courts in Singapore after conviction but before sentence is passed.

In the instant case the plaintiff, by virtue of section 28 of the Act and in the words of Lord Reid, "cannot be dismissed without first telling him what is alleged against him and hearing his defence or explanation". The first letter to the plaintiff, dated April 6, 1977, told him what was alleged against him and the three sittings of the Committee heard his defence or explanation and afforded him the opportunity of cross-examining the witnesses giving evidence against him. Now, the question is whether Article 110(3) gives the plaintiff the further right of a reasonable opportunity of being heard on punishment before dismissal. I believe that it is settled law now both in Malaysia and Singapore that the phrase "of being heard" does not mean an actual hearing in the way the plaintiff was afforded a hearing when he was answering the three charges. The Article would have been satisfied had the public officer been afforded an opportunity to present his views on punishment to the P.S.C. This opportunity could have been afforded to the public officer at the inquiry stage, as was done in the *Jacob* case and that of *Sithambaran*. As the opportunity to be heard had not been afforded to the plaintiff at the inquiry stage then that opportunity should have been provided sometime between the termination of the inquiry and the imposition of the punishment or penalty. The opportunity not having been so provided the rule of fairness was broken and any punishment or penalty imposed in such circumstances is against the rules of natural justice. The words of the learned Chief Justice in the appeal case of *Attorney-General, Singapore* v. *Ling How Doong*, when he described this failure to accord the public officer the opportunity to be heard on dismissal as a failure "in the fundamental respect to observe the test of fairness" comes to mind. The purported dismissal of the plaintiff in the instant case must therefore be declared null and void and set aside. There will therefore be an order in terms of prayers 1, 2 and 4 sought for by the plaintiff.

In passing I would like to say that if the P.S.C. does not wish to delegate both its powers of inquiry and of punishment to a committee then it should take appropriate steps to comply with the provisions of Article 110(3) of the present Constitution. In the circumstances similar to the instant case, I venture to suggest that the P.S.C. would avoid contravention of the Article if they were either, to write to the public officer concerned asking him what he has to say on punishment, or, to invite him to show cause why a certain punishment, such as dismissal, should not be imposed in respect of the charge or charges on which he had been found guilty.

Order accordingly.

Solicitors: *J.B. Jeyaretnam.*

Schedule A

POLICE FORCE ACT
(Cap. 78)

27.—(1) Where a subordinate officer is found guilty by a commanding officer or any other officer, authorized by him to conduct disciplinary proceedings, of any of the following offences:—

(a) absence from duty without leave or good cause;
(b) sleeping on duty;
(c) conduct to the prejudice of good order and discipline;
(d) cowardice in the performance of duty;
(e) disobedience of Police Regulations, Police General Orders, Force Orders, Standing Orders or any orders of a superior officer whether written or verbal;
(f) being unfit for duty through intoxication;
(g) insubordination;
(h) neglect of duty or orders;
(i) malingering;
(j) making in the course of his duty a statement which is false in a material particular;
(k) excess of duty resulting in loss or injury to any other person;
(l) wilful destruction or negligent loss of or injury to property belonging to the Government;
(m) engaging in trade or other employment without the permission of the Commissioner,

a commanding officer may order that such subordinate officer be dismissed or retired from the Police Force or may punish him with any of the following punishments:—

(n) reduction in rank, grade or seniority;
(o) deferment or stoppage of increment;
(p) reprimand;
(q) caution;
(r) extra duty,

and in lieu of or in addition to any of the aforesaid punishments, may impose a fine not exceeding one hundred dollars or forfeiture of not more than one month's pay, except in the case of absence without leave or good cause when, in addition to any other punishment, forfeiture of pay may be imposed in respect of the period of absence or such lesser period as to the commanding officer may seem fit.

(2) Where any officer authorized by a commanding officer to conduct disciplinary proceedings finds any subordinate officer guilty of any of the offences specified in subsection (1) of this section, he may impose on such subordinate officer any of the punishments which a commanding officer may impose other than that of dismissal or retirement from the Police Force.

(3) A subordinate officer may appeal against any finding or punishment under this section to the Commissioner within thirty days from the date of such finding or punishment and in every case where an appeal has been lodged any punishment awarded shall be suspended pending the determination of the appeal.

(4) Where a subordinate officer is ordered to be retired under the provisions of subsection (1) of this section his service shall, for the purposes of the Pensions Act, be deemed to have been terminated on the ground referred to in section 8 of that Act.

28.—(1) Where an inspector is found guilty by a commanding officer or any officer authorised by Police Regulations to conduct disciplinary proceedings of any of the offences specified in subsection (1) of section 27 of this Act, the Commissioner may order that such inspector be dismissed or retired from the Police Force or may punish him with any of the following punishments:—

(a) reduction in rank or seniority;
(b) deferment or stoppage of increment;
(c) reprimand;
(d) caution,

and in lieu of or in addition to any of those punishments may impose a fine not exceeding two hundred dollars and in the case of absence without leave or good cause may order forfeiture of pay for the period of absence or such lesser period as the Commissioner thinks fit.

(2) An inspector who is aggrieved by a decision of the Commissioner in respect of his dismissal, retirement or reduction in rank may, within thirty days of his being notified of such decision, make application to the Public Service Commission to review the decision of the Commissioner and in every case where an application for review has been made any punishment awarded by the Commissioner shall be suspended pending the determination of the application.

(3) The Public Service Commission may determine an application for review under subsection (2) of this section in such manner as it thinks fit and may confirm, set aside or vary the decision of the Commissioner.

(4) Where an inspector is ordered to be retired under this section his service shall, for the purposes of the Pension Act, be deemed to have been terminated on the ground referred to in section 8 of that Act.

28A.—(1) Notwithstanding the provisions of sections 27 and 28 of this Act and of the Police Regulations, the Commissioner may, if he thinks fit, refer any case where disciplinary proceedings are to be taken against a subordinate officer or an inspector to the Public Service Commission for such case to be dealt with by the Public Service Commission in accordance with the regulations governing disciplinary proceedings in the public service.

(2) Where any case has been referred to the Public Service Commission under subsection (1) of this section the Commission may order that the subordinate officer or inspector, as the case may be, be dismissed or retired from the Police Force or may punish him with any of the punishments referred to in sections 27 and 28 of this Act.

THE PUBLIC SERVICE (DISCIPLINARY PROCEEDINGS) REGULATIONS, 1970

4.—(1) If it is represented to the Public Service Commission by a Permanent Secretary that a public officer has been guilty of misconduct or neglect of duty and the Public Service Commission is of the opinion that the subject of the complaint warrants proceedings with a view to dismissal or reduction in rank, the Public Service Commission may cause proceedings to be taken under the provisions of this regulation.

(2) The public officer shall be notified in writing by his Permanent Secretary of the grounds, which shall be reduced to the form of a definite charge or charges, upon which it is intended to dismiss him or to reduce his rank and he shall be given not less than seven working days within which to exculpate himself in writing. The officer shall also be informed in writing of any other circumstances which it is proposed to take into consideration.

(3) If the public officer submits an exculpatory statement which is not satisfactory, the Public Service Commission shall appoint a Committee (hereinafter in these Regulations referred to as "the Committee") to inquire into the matter and to submit a report to the Public Service Commission.

INSTRUCTION MANUAL NO. 2

L 91 — No officer may accept an invitation or entertainment from members of the public which is of such a character as to place him under any real or apparent obligation to the members of the public concerned. He may, however, accept invitations or entertainments from personal friends.